

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

JACQUILINE M. FUTRELL,
Plaintiff,

v.

Civil No. 4:13cv25

CAROLYN W. COLVIN,
Acting Commissioner of
Social Security,
Defendant.

FINAL ORDER

Plaintiff Jacqueline M. Futrell brought this action under 42 U.S.C. § 405(g) seeking judicial review of the final decision of the Social Security Commissioner (“Commissioner”) denying her claim for disability insurance benefits (“DIB”) under Title II of the Social Security Act. Pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B), Rule 72(b) of the Federal Rules of Civil Procedure, Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, and by order of reference dated April 18, 2013, this matter was referred to United States Magistrate Judge Tommy E. Miller for a Report and Recommendation.

In a Report and Recommendation (“R&R”) filed November 22, 2013, Judge Miller found that the Administrative Law Judge’s decision to deny Ms. Futrell’s claim was made without full consideration of all the evidence on the record. ECF No. 17 at 29. Accordingly, Judge Miller recommended vacating the decision of the Commissioner and remanding this case to the Commissioner for further proceedings consistent with the R&R. *Id.*

By copy of the R&R, each party was advised of the right to file written objections to the findings and recommendations made by Judge Miller within fourteen (14) days from the date the


R&R was mailed, pursuant to Rule 6(a) of the Federal Rules of Civil Procedure. The time for filing written objections has passed, and neither party has filed objections. As indicated in the R&R, "failure to file timely objections to the findings and recommendations set forth [in the R&R] will result in waiver of right to appeal from a judgment of this court based on such findings and recommendations." *Id.* at 30.

This Court has reviewed the R&R of Judge Miller (ECF No. 17) and hereby **ADOPTS** and **APPROVES** in full the findings and recommendations set forth therein. Accordingly, it is hereby **ORDERED** that Ms. Futrell's Motion for Summary Judgment or, in the Alternative, Motion for Remand (ECF Nos. 12 & 13) be **GRANTED** to the extent that it seeks remand of the Commissioner's decision and **DENIED** to the extent that it seeks reversal and an entry of an order directing the award of benefits; the Commissioner's Cross Motion for Summary Judgment (ECF No. 15) be **DENIED**; and the final decision of the Commissioner be **VACATED** and **REMANDED** for further proceedings consistent with the R&R.

The Clerk is **REQUESTED** to send a copy of this Final Order to all counsel of record.

IT IS SO ORDERED.

January 9, 2014
Norfolk, Virginia



Arenda L. Wright Allen
United States District Judge